HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A No.3303 of 2003
Date of decision : 26.02.2007

Ranjodh Singh and others **.....Appellants**

versus

Nidhan Singh and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.G.S.Chahal, Advocate for the appellants.
Mr.M.L.Saini, Advocate for the respondents.

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ORDER

HEMANT GUPTA, J.

The defendants are in second appeal aggrieved against the judgment and decree passed by the learned First Appellate Court, whereby suit for permanent injunction in respect of the land measuring 185 kanals 15 marlas, was decreed.

It has been found that the parties are co-sharer and, therefore, the defendants cannot be permitted to raise the construction on a particular portion without partition of the land. It has also been found that an application for partition is still pending before the Revenue Authorities.

Learned counsel for the parties have stated that the learned Commissioner had passed an order on 28.12.2006 accepting the mode of partition and directed the parties to appear before the Assistant Collector 1st Grade for further partition proceedings. A certified copy of the said order is placed on record by the appellant.

Though the learned counsel for the respondents states that an application for review of the said order is pending before the learned Commissioner, but the facts remain that the partition proceedings are at final stage. Therefore, I do not find any ground to interfere with the findings recorded by the learned First Appellate Court as a co-sharer cannot be be permitted to raise construction so as to defeat the rights of the other co-sharers.

Dismissed.

However, while affirming the findings recorded, I deem it appropriate to direct the revenue authorities to finalize the partition proceedings expeditiously, preferably within 6 months from today.

(HEMANT GUPTA)
JUDGE

February 26, 2007
**mohinder*